

In the House of Representatives, U. S.,

October 27, 2021.

Resolved, That the bill from the Senate (S. 1511) entitled “An Act to amend the Omnibus Crime Control and Safe Streets Act of 1968 with respect to payments to certain public safety officers who have become permanently and totally disabled as a result of personal injuries sustained in the line of duty, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Protecting America’s*
3 *First Responders Act of 2021”.*

4 ***SEC. 2. PAYMENT OF DEATH AND DISABILITY BENEFITS***

5 ***UNDER PUBLIC SAFETY OFFICERS’ DEATH***

6 ***BENEFITS PROGRAM.***

7 *Section 1201 of title I of the Omnibus Crime Control*
8 *and Safe Streets Act of 1968 (34 U.S.C. 10281) is amend-*
9 *ed—*

10 *(1) in subsection (a), in the matter preceding*
11 *paragraph (1)—*

12 *(A) by striking “the Bureau shall pay”; and*

(B) by inserting “, and calculated in accordance with subsection (i), shall be payable by the Bureau” after “subsection (h)”.

(2) in subsection (b)—

(A) by striking “the Bureau shall pay the same benefit” and inserting “a benefit shall be payable”;

(B) by striking “that is payable under subsection (a) with respect to the date on which the catastrophic injury occurred,” and inserting “in the same amount that would be payable, as of the date such injury was sustained (including”;

(C) by inserting “, and calculated in accordance with subsection (i)), if such determination were a determination under subsection (a)” before “: Provided, That”; and

(D) by striking “necessary:” and all that follows and inserting “necessary.”;

(3) in subsection (c), by striking “\$3,000” and inserting “\$6,000, adjusted in accordance with subsection (h),”;

(4) in subsection (h), by striking “subsection (a)” and inserting “subsections (a) and (b) and the level of the interim benefit payable immediately before such October 1 under subsection (c)”;

1 (5) by striking subsection (i) and inserting the
2 following:

3 “(i) The amount payable under subsections (a) and
4 (b), with respect to the death or permanent and total dis-
5 ability of a public safety officer, shall be the greater of—

6 “(1) the amount payable under the relevant sub-
7 section as of the date of death or of the catastrophic
8 injury of the public safety officer; or

9 “(2) in any case in which the claim filed there-
10 under has been pending for more than 365 days at
11 the time of final determination by the Bureau, the
12 amount that would be payable under the relevant sub-
13 section if the death or the catastrophic injury of the
14 public safety officer had occurred on the date on
15 which the Bureau makes such final determination.”;
16 and

17 (6) in subsection (m), by inserting “; (b),” after
18 “subsection (a)”.

19 **SEC. 3. DEFINITIONS WITH RESPECT TO PUBLIC SAFETY**
20 **OFFICERS’ DEATH BENEFITS PROGRAM.**

21 Section 1204 of title I of the Omnibus Crime Control
22 and Safe Streets Act of 1968 (34 U.S.C. 10284) is amend-
23 ed—

1 (1) *by redesignating paragraphs (1), (2), (3),*
 2 (4), (5), (6), (7), (8), and (9) as paragraphs (4), (5),
 3 (6), (7), (8), (9), (10), (13), and (14), respectively;

4 (2) *by striking paragraph (4), as so redesign-*
 5 *nated, and inserting:*

6 “(4) ‘catastrophic injury’ means an injury, the
 7 direct and proximate result of which is to perma-
 8 nently render an individual functionally incapable
 9 (including through a directly and proximately result-
 10 ing neurocognitive disorder), based on the state of
 11 medicine on the date on which the claim is deter-
 12 mined by the Bureau, of performing work, including
 13 sedentary work: *Provided, That, if it appears that a*
 14 *claimant may be functionally capable of performing*
 15 *work—*

16 “(A) *the Bureau shall disregard work where*
 17 *any compensation provided is de minimis, nomi-*
 18 *nal, honorary, or mere reimbursement of inci-*
 19 *dental expenses, such as—*

20 “(i) *work that involves ordinary or*
 21 *simple tasks, that because of the claimed*
 22 *disability, the claimant cannot perform*
 23 *without significantly more supervision, ac-*
 24 *commodation, or assistance than is typi-*

1 cally provided to an individual without the
2 claimed disability doing similar work;

3 “(ii) work that involves minimal du-
4 ties that make few or no demands on the
5 claimant and are of little or no economic
6 value to the employer; or

7 “(iii) work that is performed pri-
8 marily for therapeutic purposes and aids
9 the claimant in the physical or mental re-
10 covery from the claimed disability; and

11 “(B) the claimant shall be presumed, absent
12 clear and convincing medical evidence to the
13 contrary as determined by the Bureau, to be
14 functionally incapable of performing such work
15 if the direct and proximate result of the injury
16 renders the claimant—

17 “(i) blind;

18 “(ii) parapalegic; or

19 “(iii) quadriplegic;”;

20 (3) in paragraph (6), as so redesignated, by
21 striking “at the time of the public safety officer’s fatal
22 or catastrophic injury” and inserting “at the time of
23 the public safety officer’s death or fatal injury (in
24 connection with any claim predicated upon such
25 death or injury) or the date of the public safety offi-

cer's catastrophic injury or of the final determination by the Bureau of any claim predicated upon such catastrophic injury";

(4) in paragraph (7), as so redesignated, by inserting “, including an individual who, as such a member, engages in scene security or traffic management as the primary or only duty of the individual during emergency response” before the semicolon;

(5) in paragraph (9), as so redesignated by striking “delinquency).,” and inserting “delinquency).”;

(6) in paragraph (13), as so redesignated, by inserting “, and includes (as may be prescribed by regulation hereunder) a legally organized volunteer fire department that is a nonprofit entity and provides services without regard to any particular relationship (such as a subscription) a member of the public may have with such a department” before the semicolon;

(7) in paragraph (14), as so redesignated,—

(A) by striking subparagraph (A) and inserting:

“(A) an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, or as a chaplain: Provided, That (notwithstanding section 1205(b)(2) or (3)) the Bu-

1 reau shall, absent clear and convincing evidence
2 to the contrary as determined by the Bureau,
3 deem the actions outside of jurisdiction taken by
4 any such law enforcement officer or firefighter, to
5 have been taken while serving such public agency
6 in such capacity, in any case in which the prin-
7 cipal legal officer of such public agency, and the
8 head of such agency, together, certify that such
9 actions—

10 “(i) were not unreasonable;

11 “(ii) would have been within the au-
12 thority and line of duty of such law enforce-
13 ment officer or such firefighter to take, had
14 they been taken in a jurisdiction where such
15 law enforcement officer or firefighter was
16 authorized to act, in the ordinary course, in
17 an official capacity; and

18 “(iii) would have resulted in the pay-
19 ment of full line-of-duty death or disability
20 benefits (as applicable), if any such benefits
21 typically were payable by (or with respect
22 to or on behalf of) such public agency, as of
23 the date the actions were taken;”;

1 (B) by redesignating subparagraphs (B),
 2 (C), (D), and (E) as subparagraphs (C), (D),
 3 (E), and (F), respectively;

4 (C) by inserting after subparagraph (A), the
 5 following new subparagraph:

6 “(B) a candidate officer who is engaging in
 7 an activity or exercise that itself is a formal or
 8 required part of the program in which the can-
 9 didate officer is enrolled or admitted, as pro-
 10 vided in this section;”; and

11 (D) by striking subparagraph (E), as so re-
 12 designated, and inserting the following:

13 “(E) a member of a rescue squad or ambu-
 14 lance crew who, as authorized or licensed by law
 15 and by the applicable agency or entity, is engag-
 16 ing in rescue activity or in the provision of
 17 emergency medical services: Provided, That (not-
 18 withstanding section 1205(b)(2) or (3)) the Bu-
 19 reau shall, absent clear and convincing evidence
 20 to the contrary as determined by the Bureau,
 21 deem the actions outside of jurisdiction taken by
 22 any such member to have been thus authorized or
 23 licensed, in any case in which the principal legal
 24 officer of such agency or entity, and the head of

1 *such agency or entity, together, certify that such*
 2 *actions—*

3 *“(i) were not unreasonable;*

4 *“(ii) would have been within the au-*
 5 *thority and line of duty of such member to*
 6 *take, had they been taken in a jurisdiction*
 7 *where such member was authorized or li-*
 8 *censed by law and by a pertinent agency or*
 9 *entity to act, in the ordinary course; and*

10 *“(iii) would have resulted in the pay-*
 11 *ment of full line-of-duty death or disability*
 12 *benefits (as applicable), if any such benefits*
 13 *typically were payable by (or with respect*
 14 *to or on behalf of) such applicable agency or*
 15 *entity, as of the date the action was taken;”;*

16 *(8) by inserting before paragraph (4), as so re-*
 17 *designated, the following new paragraphs:*

18 *“(1) ‘action outside of jurisdiction’ means an ac-*
 19 *tion, not in the course of any compensated employ-*
 20 *ment involving either the performance of public safety*
 21 *activity or the provision of security services, by a law*
 22 *enforcement officer, firefighter, or member of a rescue*
 23 *squad or ambulance crew that—*

24 *“(A) was taken in a jurisdiction where—*

1 “(i) the law enforcement officer or fire-
2 fighter then was not authorized to act, in
3 the ordinary course, in an official capacity;
4 or

5 “(ii) the member of a rescue squad or
6 ambulance crew then was not authorized or
7 licensed to act, in the ordinary course, by
8 law or by the applicable agency or entity;

9 “(B) then would have been within the au-
10 thority and line of duty of—

11 “(i) a law enforcement officer or a fire-
12 fighter to take, who was authorized to act,
13 in the ordinary course, in an official capac-
14 ity, in the jurisdiction where the action was
15 taken; or

16 “(ii) a member of a rescue squad or
17 ambulance crew to take, who was authorized
18 or licensed by law and by a pertinent agen-
19 cy or entity to act, in the ordinary course,
20 in the jurisdiction where the action was
21 taken; and

22 “(C) was, in an emergency situation that
23 presented an imminent and significant danger
24 or threat to human life or of serious bodily harm
25 to any individual, taken—

1 “(i) by a law enforcement officer—

2 “(I) to prevent, halt, or respond to
3 the immediate consequences of a crime
4 (including an incident of juvenile de-
5 linquency); or

6 “(II) while engaging in a rescue
7 activity or in the provision of emer-
8 gency medical services;

9 “(ii) by a firefighter—
10 “(I) while engaging in fire sup-
11 pression; or

12 “(II) while engaging in a rescue
13 activity or in the provision of emer-
14 gency medical services; or

15 “(iii) by a member of a rescue squad
16 or ambulance crew, while engaging in a res-
17 cue activity or in the provision of emer-
18 gency medical services;

19 “(2) ‘candidate officer’ means an individual who
20 is enrolled or admitted, as a cadet or trainee, in a
21 formal and officially established program of instruc-
22 tion or of training (such as a police or fire academy)
23 that is specifically intended to result upon comple-
24 tion, in the—

1 “(A) commissioning of such individual as a
2 law enforcement officer;

3 “(B) conferral upon such individual of offi-
4 cial authority to engage in fire suppression (as
5 an officer or employee of a public fire depart-
6 ment or as an officially recognized or designated
7 member of a legally organized volunteer fire de-
8 partment); or

9 “(C) granting to such individual official
10 authorization or license to engage in a rescue ac-
11 tivity, or in the provision of emergency medical
12 services, as a member of a rescue squad, or as a
13 member of an ambulance crew that is (or is a
14 part of) the agency or entity that is sponsoring
15 the individual’s enrollment or admission;

16 “(3) ‘blind’ means an individual who has central
17 visual acuity of 20/200 or less in the better eye with
18 the use of a correcting lens or whose eye is accom-
19 panied by a limitation in the fields of vision such
20 that the widest diameter of the visual field subtends
21 an angle no greater than 20 degrees;” and

22 (9) in the matter following paragraph (10), as so
23 redesignated, by inserting the following new para-
24 graphs:

1 “(11) ‘neurocognitive disorder’ means a disorder
 2 that is characterized by a clinically significant de-
 3 cline in cognitive functioning and may include symp-
 4 toms and signs such as disturbances in memory, exec-
 5 utive functioning (that is, higher-level cognitive proc-
 6 esses, such as, regulating attention, planning, inhib-
 7 iting responses, decision-making), visual-spatial func-
 8 tioning, language, speech, perception, insight, judg-
 9 ment, or an insensitivity to social standards; and

10 “(12) ‘sedentary work’ means work that—

11 “(A) involves lifting articles weighing no
 12 more than 10 pounds at a time or occasionally
 13 lifting or carrying articles such as docket files,
 14 ledgers, or small tools; and

15 “(B) despite involving sitting on a regular
 16 basis, may require walking or standing on an
 17 occasional basis.”.

18 **SEC. 4. DUE DILIGENCE IN PAYING BENEFIT CLAIMS UNDER**
 19 **PUBLIC SAFETY OFFICERS’ DEATH BENEFITS**
 20 **PROGRAM.**

21 Section 1206(b) of title I of the Omnibus Crime Con-
 22 trol and Safe Streets Act of 1968 (34 U.S.C. 10288(b)) is
 23 amended by striking “the Bureau may not” and all that
 24 follows and inserting the following: “the Bureau—

1 “(1) may use available investigative tools, in-
2 cluding subpoenas, to—

3 “(A) adjudicate or to expedite the processing
4 of the benefit claim, if the Bureau deems such
5 use to be necessary to adjudicate or conducive to
6 expediting the adjudication of such claim; and

7 “(B) obtain information or documentation
8 from third parties, including public agencies, if
9 the Bureau deems such use to be necessary to ad-
10 judicate or conducive to expediting the adjudica-
11 tion of a claim; and

12 “(2) may not abandon the benefit claim unless
13 the Bureau has used investigative tools, including
14 subpoenas, to obtain the information or documenta-
15 tion deemed necessary to adjudicate such claim by the
16 Bureau under subparagraph (1)(B).”.

17 **SEC. 5. EDUCATIONAL ASSISTANCE TO DEPENDENTS OF**
18 **CERTAIN PUBLIC SAFETY OFFICERS.**

19 Section 1216(b) of title I of the Omnibus Crime Con-
20 trol and Safe Streets Act of 1968 (34 U.S.C. 10306(b)) is
21 amended, in the first sentence, by striking “may” and in-
22 serting “shall (unless prospective assistance has been pro-
23 vided)”.

1 **SEC. 6. TECHNICAL CORRECTION.**

2 *Section 1205(e)(3)(B) of the Omnibus Crime Control*
 3 *and Safe Streets Act of 1968 (34 U.S.C. 10285(e)(3)(B))*
 4 *is amended by striking “subparagraph (B)(ix)” and insert-*
 5 *ing “subparagraph (I)”.*

6 **SEC. 7. SUBPOENA POWER.**

7 *Section 806 of title I of the Omnibus Crime Control*
 8 *and Safe Streets Act of 1968 (34 U.S.C. 10225) is amend-*
 9 *ed—*

10 (1) *by inserting “Attorney General, the” before*
 11 *the “Bureau of Justice Assistance”;*

12 (2) *by striking “may appoint” and inserting*
 13 *“may appoint (to be assigned or employed on an in-*
 14 *terim or as-needed basis) such hearing examiners*
 15 *(who shall, if so designated by the Attorney General,*
 16 *be understood to be comprised within the meaning of*
 17 *“special government employee” under section 202 of*
 18 *title 18, United States Code)”;*

19 (3) *by striking “under this chapter. The” and*
 20 *inserting “or other law. The Attorney General, the”;*
 21 *and*

22 (4) *by inserting “conduct examinations” after*
 23 *“examine witnesses,”.*

1 **SEC. 8. EFFECTIVE DATE; APPLICABILITY.**

2 (a) *IN GENERAL.*—*Except as otherwise provided in*
 3 *this section, the amendments made by this Act shall take*
 4 *effect on the date of enactment of this Act.*

5 (b) *APPLICABILITY.*—

6 (1) *CERTAIN INJURIES.*—*The amendments made*
 7 *to paragraphs (2) and (7) of section 1204 of title I*
 8 *of the Omnibus Crime Control and Safe Streets Act*
 9 *of 1968 (34 U.S.C. 10284) shall apply with respect to*
 10 *injuries occurring on or after January 1, 2008.*

11 (2) *MATTERS PENDING.*—*Except as provided in*
 12 *paragraph (1), the amendments made by this Act*
 13 *shall apply to any matter pending, before the Bureau*
 14 *or otherwise, on the date of enactment of this Act, or*
 15 *filed (consistent with pre-existing effective dates) or*
 16 *accruing after that date.*

17 (c) *EFFECTIVE DATE FOR WTC RESPONDERS.*—

18 (1) *CERTAIN NEW CLAIMS.*—*Not later than two*
 19 *years after the effective date of this Act, a WTC re-*
 20 *sponder may file a claim, under section 1201(b) of*
 21 *title I of the Omnibus Crime Control and Safe Streets*
 22 *Act of 1968 (34 U.S.C. 10281(b)), that is predicated*
 23 *on a personal injury sustained in the line of duty by*
 24 *such responder as a result of the September 11, 2001,*
 25 *attacks, where—*

1 (A) no claim under such section 1201(b) so
2 predicated has previously been filed; or

3 (B) a claim under such section 1201(b) so
4 predicated had previously been denied, in a final
5 agency determination, on the basis (in whole or
6 in part) that the claimant was not totally dis-
7 abled.

8 (2) CLAIMS FOR A DECEASED WTC RE-
9 SPONDER.—Not later than two years after the effec-
10 tive date of this Act, a claim may be filed, construc-
11 tively under section 1201(a) of title I of the Omnibus
12 Crime Control and Safe Streets Act of 1968 (34
13 U.S.C. 10281(a)), where a WTC responder who other-
14 wise could have filed a claim pursuant to paragraph
15 (1) has died before such effective date (or dies not
16 later than 365 days after such effective date), or
17 where a WTC responder has filed such a claim but
18 dies while it is pending before the Bureau: Provided,
19 That—

20 (A) no claim under such section 1201(a)
21 otherwise shall have been filed, or determined, in
22 a final agency determination; and

23 (B) if it is determined, in a final agency
24 determination, that a claim under such para-
25 graph (1) would have been payable had the WTC

1 *responder not died, then the WTC responder*
2 *shall irrebutably be presumed (solely for pur-*
3 *poses of determining to whom benefits otherwise*
4 *pursuant to such paragraph (1) may be payable*
5 *under the claim filed constructively under such*
6 *section 1201(a)) to have died as the direct and*
7 *proximate result of the injury on which the*
8 *claim under such paragraph (1) would have been*
9 *predicated.*

10 *(3) DIFFERENCE IN BENEFIT PAY.—In the event*
11 *that a claim under section 1201(b) of title I of the*
12 *Omnibus Crime Control and Safe Streets Act of 1968*
13 *(34 U.S.C. 10281(b)) and predicated on an injury*
14 *sustained in the line of duty by a WTC responder as*
15 *a result of the September 11, 2001, attacks was ap-*
16 *proved, in a final agency determination, before the ef-*
17 *fective date of this Act, the Bureau shall, upon appli-*
18 *cation filed (not later than three years after such ef-*
19 *fective date of this Act) by the payee (or payees) indi-*
20 *cated in subparagraphs (A) or (B), pay a bonus in*
21 *the amount of the difference (if any) between the*
22 *amount that was paid pursuant to such determina-*
23 *tion and the amount that would have been payable*
24 *had the amendments made by this Act, other than*

1 *those indicated in subsection (b)(1), been in effect on*
 2 *the date of such determination—*

3 *(A) to the WTC responder, if living on the*
 4 *date the application is determined, in a final*
 5 *agency determination; or*

6 *(B) if the WTC responder is not living on*
 7 *the date indicated in subparagraph (A), to the*
 8 *individual (or individuals), if living on such*
 9 *date, to whom benefits would have been payable*
 10 *on such date under section 1201(a) of such title*
 11 *I (34 U.S.C. 10281(a)) had the application been,*
 12 *instead, a claim under such section 1201(a).*

13 *(4) SPECIAL LIMITED RULE OF CONSTRUC-*
 14 *TION.—A claim filed pursuant to paragraph (1) or*
 15 *(2) shall be determined as though the date of cata-*
 16 *strophic injury of the public safety officer were the*
 17 *date of enactment of this Act, for purposes of deter-*
 18 *mining the amount that may be payable.*

19 **SEC. 9. SAFEGUARDING AMERICA’S FIRST RESPONDERS.**

20 *Section 3 of Safeguarding America’s First Responders*
 21 *Act of 2020 (Public Law 116-157) is amended—*

22 *(1) in subsection (a)(1), by striking “between*
 23 *January 1, 2020, and December 31, 2021” and in-*
 24 *serting “during the period beginning on January 1,*
 25 *2020, and ending on the termination date” and*

1 (2) in subsection (b)(1), by striking “between
 2 January 1, 2020, and December 31, 2021” and in-
 3 serting “during the period beginning on January 1,
 4 2020, and ending on the termination date”; and

5 (3) by adding at the end the following:

6 “(c) *TERMINATION DATE.*—For purposes of this sec-
 7 tion, the term ‘termination date’ means the earlier of—

8 “(1) the date on which the public health emer-
 9 gency declared by the Secretary of Health and
 10 Human Services under section 319 of the Public
 11 Health Service Act (42 U.S.C. 247d) on January 31,
 12 2020, with respect to the Coronavirus Disease
 13 (COVID–19), expires; and

14 “(2) December 31, 2023.”.

Attest:

Clerk.

117TH CONGRESS
1ST SESSION

S. 1511

AMENDMENT